

804 KAR 4:280. Affiliated businesses.

RELATES TO: KRS 244.240, 244.570

STATUTORY AUTHORITY: KRS 241.060

NECESSITY, FUNCTION, AND CONFORMITY: KRS 244.240 prohibits a distiller, rectifier, vintner or wholesaler or an employee thereof from being interested "directly or indirectly" in any way in any premises where distilled spirits or wine are sold at retail or any business devoted wholly or partially to the sale of distilled spirits or wine at retail. KRS 244.570 prohibits a brewer or distributor "either directly or indirectly" from having an ownership or leasehold interest in any property for which a retail license is issued. The trend in the alcoholic beverage industry today, as well as in American business generally, is toward diversification. It is a common practice for manufacturers, wholesalers and distributors, to be owned by holding companies which may also own many other businesses unrelated to the manufacture or distribution of alcoholic beverages. Because of the rise of this diversification, it has become more difficult to determine whether an "indirect" interest in a retail premises exists. This administrative regulation will eliminate any confusion relating to the application of KRS 244.240 and/or KRS 244.570 to businesses affiliated with distillers, rectifiers, wineries, wholesalers, brewers, and distributors.

Section 1. For the purpose of this administrative regulation an affiliated business of a distiller, rectifier, winery, wholesaler, brewer, or distributor is a corporate entity owned in whole or in part, directly or indirectly, by a corporation which itself also owns in whole or in part a corporation engaged in the business of distiller, rectifier, winery, wholesaler, brewer, or distributor.

Section 2. For the purposes of KRS 244.240 and KRS 244.570 the term "indirectly" shall not preclude an affiliated business of a distiller, rectifier, winery, wholesaler, brewer, or distributor from having an ownership or leasehold interest in a property for which a retail alcoholic beverage license is issued, provided all the following conditions are met:

- (1) The affiliated business is not a wholly owned subsidiary of a distiller, rectifier, winery, wholesaler, brewer, or distributor.
- (2) The affiliated business does not wholly own a business entity engaged in the business of distiller, rectifier, winery, wholesaler, brewer, or distributor.
- (3) The affiliated business is not engaged in any manner in the business of distiller, rectifier, winery, wholesaler, brewer, or distributor.
- (4) The affiliated business does not itself hold any retail licenses.
- (5) The affiliated business and the distiller, rectifier, winery, wholesaler, brewer, or distributor shall have separate management and in no case shall the affiliated business and the distiller, rectifier, winery, wholesaler, brewer, or distributor have more than twenty-five (25) percent of their officers or directors in common.

Section 3. The provisions of this administrative regulation in no manner relieve any distiller, rectifier, winery, wholesaler, brewer, or distributor from the provisions of KRS 244.240, 244.590 and 244.600. (12 Ky.R. 1120; eff. 1-3-1986; TAm eff. 4-30-2013.)